

JOAQUIN A. BAZAN

APRIL 23, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 8046]

The Committee on the Judiciary, to whom was referred the bill (H. R. 8046) for the relief of Joaquin A. Bazan, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the requirements of sections 15 through 20 of the Federal Employees Compensation Act, as amended (39 Stat. 742), with respect to filing notice of, injury and claim for compensation are hereby waived in favor of Joaquin A. Bazan and his claim for compensation for disability alleged to have resulted from an injury sustained while in the performance of his duties on March 31, 1942, as a senior foreman of laborers, United States Department of Agriculture at San Ysidro, New Mexico, shall be considered and acted upon under the remaining provisions of such Act in the same manner as if such notice and claim had been timely filed, if such claim is filed within six months after the date of the enactment of this Act: *Provided*, That no benefits except reimbursable medical expenses shall accrue by reason of the enactment of this Act for any period prior to its enactment.

This bill provides that sections 15 to 20, inclusive, of the Federal Employees' Compensation Act, as amended, be waived so that Joaquin A. Bazan may file his claim with the Department of Labor (Bureau of Employees' Compensation), and be considered on its merit for alleged injuries sustained on March 31, 1942, while working as a senior foreman of laborers, Department of Agriculture, San Ysidro, N. Mex.

Mr. Bazan states that he was not aware of the Employees' Compensation Act until sometime during the year 1957, and when he was informed that he immediately filed his claim and it was rejected because of the time limitation, therefore, his claim has not been considered on its merit. Your committee is of the opinion that he

should be permitted to file his claim and recommend favorable consideration of the bill as amended.

The Department of Labor has submitted to the committee copy of report it made to the Senate Committee on the Judiciary dated May 16, 1957, which is made a part of this report.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., October 1, 1957.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR CONGRESSMAN CELLER: This is in reply to your request of September 11, 1957, for a report on H. R. 8046, a bill for the relief of Joaquin A. Bazan.

This Department has no information relating to possible justification for the preferential treatment of this case provided by the bill. However, should the committee's investigation disclose evidence, not now available to the Department, justifying such preferential treatment, the Department for its part would interpose no objection to the enactment of the bill since it provides only the legal authority for the Secretary of Labor to consider any claim Mr. Bazan may file within a year of its enactment for compensation for disability, and to award any compensation to which he would have been entitled had the claim been filed within the time and in the manner provided by the Federal Employees' Compensation Act. It should be recognized, however, that there was a large number of employees engaged in the same type of hazardous occupation at that time, and preferential treatment of Mr. Bazan might be viewed as a precedent and result in requests for more waivers of this type.

Mr. Bazan made a claim to the Bureau of Employees' Compensation on March 26, 1957, for an injury that he claims occurred to him prior to March 31, 1942, when he was working as a senior foreman of laborers in a Civilian Conservation Corps camp in New Mexico. Since he apparently made no claim at that time, and the legal period in which he could make such a claim has long since expired, the Bureau of Employees' Compensation refused on that basis to consider his claim and so notified him on April 2, 1957.

As 15 years have elapsed since this man's employment, and no records on his problem were available in the Department, we sought the best available information. A few of our presently employed personnel were personally acquainted with and worked with Mr. Bazan at the time and statements from them, developed from their memory of the situation at the time, are attached for your information.

As we have no specific evidence regarding an injury and would be in no position to evaluate the relationship of any disability with an injury that might have occurred over 15 years ago, we feel we are not in a position to make any other recommendations.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, May 16, 1957.

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

DEAR SENATOR EASTLAND: This is in further response to your request for my views on S. 1880, a bill for the relief of Joaquin A. Bazan.

This bill would waive in favor of Joaquin A. Bazan the time limitations of the Federal Employees' Compensation Act (39 Stat. 742, as amended) with respect to the filing of notice of injury and claim for compensation.

This case first came to the attention of the Bureau of Employees' Compensation of this Department through a personal call made by Mr. Bazan on September 4, 1956. He subsequently filed a formal claim for compensation which was received by the Bureau on March 28, 1957. In this claim he alleges that he acquired a rheumatic condition through long hours of exposure to dampness while employed by the Soil Conservation Service at the Isleta Indian Settlement, N. Mex. He fixes the time of injury as prior to March 31, 1942, and claims compensation from April 1, 1942, to date. The claim was rejected by the Bureau on the ground that it was not filed within the 5-year-time limitation of the Federal Employees' Compensation Act.

Unless the Congress should find extenuating circumstances which justify waiving the time limitation in this case, I would not favor enactment of legislation which would provide preferential treatment for a single individual in a group of similarly situated persons.

It should be noted that this bill does not follow the pattern of the usual private relief bills. The language of the first part of the bill could be construed, not only as a waiver of the time limitation, but as a legislative determination that Mr. Bazan is in fact disabled, and that his disability is the result of an injury incurred in the course of his Federal employment. Further, section 2 (b) of this bill provides for the lump-sum payment of benefits that would have accrued before its enactment if it is determined that these are the only benefits to which Mr. Bazan is entitled. The usual private relief bill does not provide for the payment of retroactive benefits except reimbursable medical expenses.

I am enclosing a draft bill which would correct the defects noted. I suggest that this draft bill be substituted for the present bill if this case is given further consideration.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

Secretary of Labor.

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